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| 09/955,510 | 09/18/2001 | Matthew A. Hayduk | 884.552US1 | 9786 |

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SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

| EXAMINER |
|---|
| RAMAKRISHNAIAH, MELUR |

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on _16 March 2007_.

2a)☐ This action is **FINAL**.       2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) _1,2,4,5,7-16 and 18-27_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1,2,4,5,7-16 and 18-27_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

        1.☐ Certified copies of the priority documents have been received.

        2.☐ Certified copies of the priority documents have been received in Application No. _____.

        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

## *Claim Rejections - 35 USC § 102*

1.      The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2.      Claims 1-2, 4-5, 7-12, 13-15, 16, 18-19, 20-24, 25-27 are rejected under 35

U.S.C 102(e) as being anticipated by Kinnunen et al. (US PAT: 6,813,501, filed 2-27-

2001 hereinafter Kinnunen).

Regarding claim 1, Kinnunen discloses an application execution system,

comprising: a position monitoring module (218, fig. 2, col. 8 lines 3-16), a mobile

element (214, fig. 2) associated with a position capable of being monitored by the

position monitoring module, the mobile element having memory including set of user

service preferences (reads on 220, fig. 2) including first user preference, a service

broadcaster (reads on 246, fig. 2) capable of being communicatively coupled to the

mobile element and broadcasting second service preference to the mobile element, and

a comparator module (not shown) included in the mobile element to compare the first

and second service preferences, wherein the an application is downloaded to the

memory when the first and second service are determined to be related by the

comparator module (col. 3 lines 28-48; col. 10 lines 41-60; claims 14-16).

Regarding claims 2, 4-5, 7-12, Kinnunen further teaches the following: position-monitoring module (218, fig. 2) includes software program, a global positioning system receiver as shown in fig. 1 connected to (218, fig. 2) communicatively coupled to position monitoring module (col. 8 lines 1-16), mobile element (214, fig. 2) includes memory (this is implied by storing of user profile agent 220, service view agent 222, fig. 2), and wherein service broadcaster (reads on 246, fig. 2) includes application associated with the second service preference (col. 3 lines 28-48; claims 14-16), mobile element comprises personal internet client (222, fig. 2, col. 9 lines 36-49), mobile element comprises a cellular telephone (214, fig. 2), second service preference comprises hotel list file (col. 13 lines 36-42), plurality list files related to the set of user preferences is broadcast to the mobile element, plurality of list files is formatted as a selection list, selection list includes a selected number of items determined by the position (col. 9 lines 12-48).

Regarding claim 13, Kinnunen discloses a mobile element, comprising: a position monitoring module (218, fig. 2) capable of monitoring a position associated with the mobile element (214, fig. 2, col. 8 lines 3-16), a first memory including a first service preference (this is implied by storage of user profile agent 220, fig. 2) , the memory capable of receiving a second service preference determined by the position, a comparator module (not shown) communicatively coupled to the memory to compare the first and second service preferences (col. 3 lines 28-45).

Regarding claims 14-15, Kinnunen further teaches the following: a global positioning receiver communicatively coupled to the positioning module (reads on 218,

col. 8 lines 9-16), service broadcaster includes an application associated with an application associated with the second service preferences, and wherein application is downloaded to the memory when the first and second service preferences are determined to be related by the comparator module (col. 3 lines 29-48; claims 14-16).

Regarding claim 16, Kinnunen discloses an apparatus (fig. 2), comprising: a processor in (214, fig. 2), a memory coupled to the processor for receiving position of a mobile element (this is implied by location agent receiving position information from GPS etc (see fig. 2) and a first service preference (see user profile agent 220, fig. 2) associated with the mobile element (214, fig. 2), a memory coupled to the processor including the second service preference associated with user position, and an application associated with the second service preference, wherein the application is downloaded to the mobile element when the second service preference is determined by the mobile element to be related to a first service preference stored in the mobile elements (col. 3 lines 29-48; claims 14-16).

Regarding claims 18-19, Kinnunen further teaches the following: a memory for receiving a set of capabilities associated with the mobile element, application is downloaded to the mobile element (114, fig. 2) if the set of capabilities associated with the mobile terminal is not in accordance with a set of application requirements associated with the application (this is implied in as much as the reference teaches downloading applications that fits the profile of mobile terminal capabilities: col. 3 lines 30-48).

Regarding claim 20, Kinnunen discloses a method of executing an application, comprising: determining a position of the mobile element, selecting a second service preference associated with the application according to the position and a first service preference retained in the mobile element, wherein the application is downloaded to the mobile element upon mobile element determining the first service preference is related to a second service preference (col. 3 lines 29-48; claims 14-16).

Regarding claims 21-24, Kinnunen further teaches the following: broadcasting the second service preference to the mobile element (114, fig. 2) requesting broadcast of the application, and broadcasting the application to the mobile element for downloading and execution by the mobile element (col. 3 lines 29-48; claims 14-16), storing the first service preference in the mobile element (see user profile agent 220, fig. 2), sending a set of capabilities associated with the mobile element (214, fig. 2) to a service broadcaster (such as location aware services 246, fig. 2), and refraining from broadcasting the application to the mobile terminal if the set of capabilities associated with the mobile element is not in accordance with a set of application requirements associated with the application (this is implied in as much as the reference teaches downloading applications that fits the profile of mobile terminal capabilities: col. 3 lines 30-48), second service preference comprises a hotel list file (col. 13 lines 36-50).

Regarding claim 25, Kinnunen discloses a computer readable medium having program instructions stored thereon for implementing, when executed by digital processing device, a method for executing an application (col. 4 lines 23-42), the method comprising: determining position of a mobile terminal (col. 8 lines 9-16),

selecting a second service preference3 associated with the application according to the

position and first service preference retained in the mobile element, wherein the

application is downloaded to the mobile terminal (214, fig. 2) upon mobile element

determining that the first service preference is related to a second service preference

(col. 3 lines 29-48; claims 14-16).

Regarding claims 26-27, Kinnunen further teaches the following: broadcasting

the second service preference to the mobile element (214, fig. 2), requesting broadcast

of the application, and broadcasting the application to the mobile element for

downloading and execution by the mobile element (col. 3 lines 29-48; claims 14-16; col.

9 lines 12-49), sending set of capabilities associated with the mobile terminal to a

service broadcaster, and refraining from broadcasting the application to the mobile

element if the set of capabilities associated with the mobile element is not in accordance

with a set of application requirements associated wit the application (this is implied in as

much as the reference teaches downloading applications that fits the profile of mobile

terminal capabilities: col. 3 lines 30-48).

### Conclusion

3.      The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

--(2002/0068599) to Rodriguez et al. discloses a system and method for

providing, a local telephone directory based on mobile telephone location.

--(5,625,668) to Loomis et al. discloses a cellular telephone embodiment which comprises a combination of global positioning system (GPS) receiver and a cellular transceiver.

--(6,732,080) to Blants discloses system and method of providing personal calendar services.

### *Response to Arguments*

4.     Applicant's arguments with respect to claims 1-2, 4-5, 7-16, 18-27 have been considered but are moot in view of the new ground(s) of rejection.
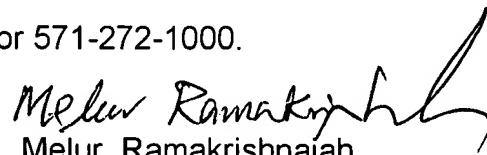
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melur Ramakrishnaiah whose telephone number is (571)272-8098. The examiner can normally be reached on 9 Hr schedule.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Curt Kuntz can be reached on (571) 272-7499. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Melur Ramakrishnaiah
Primary Examiner
Art Unit 2614